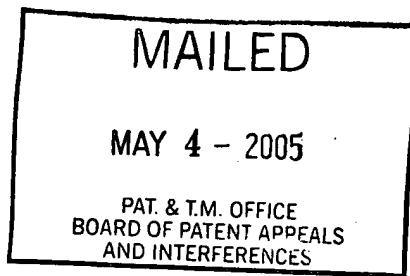


Filed by: Sally C. Medley'
Administrative Patent Judge
Mail Stop Interference
P.O. Box 1450
Alexandria VA 22313-1450
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Paper 1

Filed: 4 May 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

WILLIAM FRANK MARTIN, RUEDIGER HAIN,
KLAUS-GUENTHER TIETJEN, MARCO BUSCH
and ANDREAS S. KLOTI
Junior Party
(Patent 6,303,365),

v.

ALBERT BORONAT, NARCISO CAMPOS
and GANESH M. KISHORE
Senior Party
(Application 09/987,025).

Patent Interference No. 105,300

DECLARATION

Part A. Declaration of interference

As part of Board efforts under the Government Paperwork Elimination Act, signatures on papers originating from the Board are being phased out in favor of a completely electronic record. Consequently, subsequent papers in this case originating at the Board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 C.F.R. § 10.18

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

Part B. Judge managing the interference

Administrative Patent Judge Sally C. Medley has been designated to manage the interference. 37 CFR § 41.104(a) [Bd. R. 104(a)].

Part C. Standing order

A Trial Section STANDING ORDER [SO] accompanies this DECLARATION. The STANDING ORDER applies to this interference.

The Board is conducting a DVD pilot project. A copy of the procedure is attached to this order.

Part D. Initial conference call

A telephone conference call to discuss the interference is set for **1:30 p.m. on 28 June 2005** (the Board will initiate the call).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile (SO ¶ 4.5) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶ 26) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER². Counsel are encouraged to discuss the schedule prior to the conference

² Default times for time periods 1-10 are attached.

call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

The Board is conducting an electronic filing pilot project. A copy of the procedure is attached to this order. Counsel should be prepared to discuss participation in the pilot project.

Part E. Identification and order of the parties

Junior Party

Named inventor:	WILLIAM FRANK MARTIN, Neuss, Germany RUEDIGER HAIN, Langenfeld Germany KLAUS-GUENTHER TIETJEN, Langenfeld Germany MARCO BUSCH, Burscheid, Germany ANDREAS S. KLOTI, Durham, North Carolina
Patent:	6,303,365, granted 16 October 2001, based on application 09/449,335, filed 24 November 1999
Title:	Method of determining activity of 1-Deoxy-D-Xylulose-5- Phosphate Reductoisomerase and 1-Deoxy-D-Xylulose-5- Phosphate Synthase
Assignee:	Paradigm Genetics, Inc. RTP and Bayer Ag.
Accorded Benefit:	none

Senior Party

Named Inventors:	ALBERT BORONAT, Barcelona, Spain NARCISO CAMPOS, Barcelona, Spain GANESH M. KISHORE, Creve Coeur, MO
Application:	09/987,025, filed 13 November 2001
Title:	Nucleic acid sequences to proteins involved in isoprenoid synthesis
Assignee:	Calgene LLC
Accorded Benefit:	Application 09/549,787, filed 14 April 2000 Application 60/129899, filed 15 April 1999

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1). The senior party is responsible for initiating settlement discussions. SO ¶ 18.

Part F. Count and claims of the parties

Count 1

Claim 39 of application 09/987,025

or

Claim 1 of U.S. Patent 6,303,365

The claims of the parties are:

Martin: 1-13

Boronat: 21-26, 37 and 39

The claims of the parties which correspond to Count 1 are:

Martin: 1, 2, and 4-13

Boronat: 21-26, 37 and 39

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Martin: 3

Boronat: none

Part G. Heading to be used on papers

The heading in SO Form 1 must be used on all papers filed in this interference. See SO

¶ 7.2.1. The administrative patent judge and parties must be indicated as follows:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge Sally C. Medley)

WILLIAM FRANK MARTIN, RUEDIGER HAIN,
KLAUS-GUENTHER TIETJEN, MARCO BUSCH
and ANDREAS S. KLOTI
Junior Party
(Patent 6,303,365),

v.

ALBERT BORONAT, NARCISO CAMPOS
and GANESH M. KISHORE
Senior Party
(Application 09/987,025).

Patent Interference No. 105,300

Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Part E of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

Enc:

Copy of STANDING ORDER
Copy U.S. Patent 6,303,365
Copy of claims of application 09/987,025
Copy of Form 850
Copy of Examiner's write-up
Copy of default times for time periods 1-10
Copy of e-filing pilot project order
Copy of DVD pilot project order

Revised September 2004

cc (via overnight delivery):

Attorney for MARTIN:

Eric J. Kron, Esq.
ICORIA, INC.
108 T.W. Alexander Drive, Bldg. 1A
Post Office Box 14528
Research Triangle Park, N.C. 27709

Attorney for BORONAT:

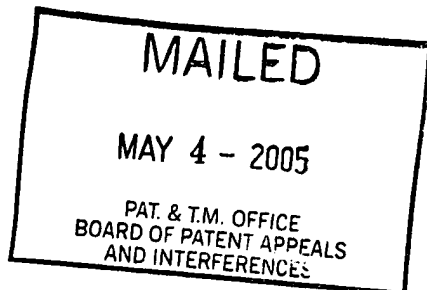
FULBRIGHT & JAWORSKI LLP
600 Congress Avenue, Suite 2400
Austin, TX 78701



UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Sally C. Medley
Telephone: 571-272-9797
Facsimile: 571-273-0042



Applicants: BORONAT
Application No.: 09/987,025
Filed: 11/13/01
For: Nucleic acid sequences to proteins involved
in isoprenoid synthesis

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,300.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).


SALLY C. MEDLEY
Administrative Patent Judge

INTERFERENCE DIGEST

Interference No. 105,300

Paper No.

Name: Albert Boronat et al.

Serial No.: 09/987,025

Patent No.

Title: Nucleic acid sequences to proteins involved in isoprenoid synthesis

Filed: 11/13/01

Interference with Martin et al.

DECISION ON MOTIONS

Administrative Patent Judge, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, _____ Dated, _____

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.